



State of Tennessee Voluntary Buyout Program

June 2008

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STATE OF TENNESSEE
VOLUNTARY BUYOUT PROGRAM (“VBP”)

INTRODUCTION

THE STATE OF TENNESSEE (hereinafter the “State”) has adopted the STATE OF TENNESSEE VOLUNTARY BUYOUT PROGRAM (hereinafter the “VBP”), effective June 10, 2008 (the “Effective Date”), for the benefit of eligible employees as described in this program document.

The VBP is established in response to current and anticipated business conditions that require a reduction in the number of employees in order for the State to control costs and operate within its budget. The VBP is designed to provide eligible employees who voluntarily elect to separate employment with the State with severance pay and severance benefits as described in this program document (hereinafter referred to as “VBP Benefits”).

This document shall serve as the program document governing the terms of the VBP. Eligibility for the VBP and the benefits paid under the VBP are governed by the terms of this document. You should refer to this document for information concerning any rights and obligations you may have under the VBP.

Throughout this document, the following definitions apply:

“Appointing Authority” – means an officer having power to make appointments to and separations from positions in the State service (e.g., a State Commissioner or Executive Director).

“Eligible Employee” – means an employee of the State who meets the eligibility criteria described below in this program document and is therefore invited to participate in the VBP.

“Participant” – means an Eligible Employee who submits an application to participate in the VBP and is accepted into the program.

THE PROGRAM IS VOLUNTARY

Participation in the VBP shall be on a strictly voluntary basis for all employees deemed eligible for participation. The choice is entirely yours. No one at the State is requiring you to accept or reject participation in the VBP, but we do encourage you to consider the program and determine if it is the right opportunity for you.

The existence of the VBP does not in any way change your relationship with the State. You are free to choose to participate or not to participate. You should understand that if you are eligible and decline to participate, you will not be treated any differently with respect to future terms and conditions of employment than any other similarly situated employee. You should also understand that the VBP does not provide any right to future employment with the State or otherwise affect the status or terms and conditions of your current employment, except that your employment relationship with the State will end on your Voluntary Separation Date, as defined below, should your application to participate in the VBP be accepted.

ELIGIBLE EMPLOYEES

The VBP is applicable only to an Eligible Employee. You are an **“Eligible Employee”** if you are employed in the Executive Branch of the State, designated by your organizational unit’s Appointing Authority as being eligible to participate in the VBP, and you:

- (a) are actively employed in a full-time Career Service position, are not in an interim, seasonal or emergency appointment and are not in a probationary period that follows your initial hire with the State; or
- (b) are actively employed in a full-time Executive Service position and you have, unless waived by the Commissioner of Human Resources and the Commissioner of Finance and Administration, a total of six or more years of State service as of June 10, 2008.

Under the VBP, “actively employed” means being actively at work, on vacation, on sick leave, on military leave, on paid leave of absence, or on an unpaid leave of absence that has not exceeded one year as of **August 5, 2008**. Employees on an unpaid leave of absence that exceeds one year as of **August 5, 2008** are not eligible for the VBP.

Under the VBP, “full-time” means an employee scheduled to work a full-time schedule as defined by the Commissioner of Human Resources and the Commissioner of Finance and Administration, usually one thousand nine hundred and fifty (1950) hours or more per year.

Under the VBP, a “probationary period” is satisfied if the combined total of full-time State employment in positions others than temporary, seasonal, emergency, temporary provisional, limited term or part-time, or interim positions is equivalent by June 10, 2008 to an initial probationary period in the position an employee holds on June 10, 2008.

Eligible Employees may submit an application to become a Participant, as described in this document.

CONDITIONS OF INELIGIBILITY

You shall not be eligible for severance pay or severance benefits under the VBP if the VBP Administrator determines that any of the following apply:

- (a) you are not designated by your organizational unit’s Appointing Authority as being eligible to participate in the VBP;
- (b) you are not or cease to be an “Eligible Employee” as defined above;
- (c) you submitted a resignation notice before **June 10, 2008**;
- (d) you submitted an effective notice of retirement before **June 10, 2008**. For purposes of the VBP, employees who have left their position and attained their retirement date or are on their terminal leave have submitted an effective notice of retirement;
- (e) you are terminated by reason of unacceptable performance or because of a violation of one of the State’s laws, rules, or policies;
- (f) you accept any other position within the State through your Voluntary Separation Date;
- (g) you leave employment with the State before your Voluntary Separation Date (for reasons other than retirement pursuant to a notice of retirement received on or after June 10, 2008); or
- (h) the VBP is terminated.

The VBP will be offered to a limited number of Eligible Employees who apply. Each organizational unit's Appointing Authority has made a determination by classification in each agency or within certain divisions/business units, subdivision/sub-business units and/or office locations (hereinafter "designated unit") of the number of positions within each classification that may be eliminated. If more Eligible Employees in a classification in a designated unit elect to participate in the VBP than the number of positions in that classification considered for elimination, applications for Eligible Employees in that classification in that designated unit will be considered and approved based on "seniority." For purposes of the VBP, seniority means the total number of months of employment with the State in any classification as determined by the Commissioner of Human Resources. Creditable service includes continuous and non-continuous service as well as any time off on (i) paid sick leave, (ii) paid leave of absence, (iii) unpaid leave of absence under the FMLA, and (iv) military leave.

For example, if agency X designates three Administrative Assistant 1 positions for possible elimination in Division Y's central office (the "designated unit" in this example), and five eligible Administrative Assistant 1's within that Division's central office apply, the applications of the three Administrative Assistant 1's with the most State seniority will be accepted. The State, however, reserves the right, in its sole discretion, to accept and approve more applications than the maximum available under the VBP.

Exhibit A, the State of Tennessee Voluntary Buyout Program Group Waiver and General Release Agreement (the "Waiver and Release Agreement"), contains a listing of the ages and job titles of employees in your State organizational unit who are eligible to participate in the VBP, plus the ages and job titles of those not eligible to participate. **In no event will any Eligible Employee who participates in the VBP be eligible for more than one State-sponsored severance plan, policy, or program.**

VBP APPLICATION PROCEDURE

If you have received a letter from the Commissioner of Human Resources inviting you to participate in the VBP, you may apply to participate in the VBP by (i) signing the VBP application form indicating that you elect to voluntarily separate from employment with the State and obtain severance pay and benefits, and (ii) submitting the signed application form to the VBP Administrator on or before **August 5, 2008**. The VBP application form is attached hereto as **Attachment I**. If you mail the application form, it must be postmarked not later than **August 5, 2008**. If you hand deliver the application form, it must be submitted to the VBP Administrator at the Department of Human Resources office during normal business hours, but not later than **5:00 p.m. Central time on August 5, 2008**. Application forms must be mailed or hand delivered to the VBP Administrator, Department of Human Resources, James K. Polk Building, 1st Floor, 505 Deaderick Street, Nashville, TN 37243-0635. ***Application forms sent by facsimile, electronic mail, or inter-governmental messenger mail will not be accepted.*** The State will not be responsible for lost mail.

All VBP application forms are subject to the State's approval. With the exception of the application forms of retirement eligible employees who provide notice of their retirement on or after June 10, 2008, no application form shall be approved from any Eligible Employee who is no longer an employee of the State at the time the VBP Administrator receives the application form.

You may revoke your application form on or before **August 5, 2008**. If the application form is not revoked by such date and you are accepted into the VBP, then your employment with the State will terminate as of your Voluntary Separation Date (as defined below). The revocation letter must be in writing to the VBP Administrator and postmarked or hand delivered to the VBP Administrator on or before **August 5, 2008**. If hand-delivered, it must be submitted no later than **5:00 p.m. Central time on August 5, 2008** to the VBP Administrator, Department of Human Resources, James K. Polk Building, 1st Floor, 505 Deaderick Street, Nashville, TN 37243-0635. ***Revocations sent by facsimile, electronic mail,***

or inter-governmental messenger mail will not be accepted. The State will not be responsible for lost mail.

The VBP Administrator will acknowledge in writing the approval of the application forms that meet the conditions of the VBP. An Eligible Employee whose application form is approved shall be considered a **“Participant”** under the VBP. The date a Participant terminates employment with the State in accordance with the VBP will be his or her **“Voluntary Separation Date.”** Unless approved otherwise in writing by August 15, 2008, a Participant’s employment with the State shall terminate on **August 15, 2008.** Notwithstanding the above, a Participant who is also eligible for retirement benefits under the State’s retirement plan may voluntarily elect to terminate employment with the State before August 15, 2008 and before his or her VBP application form is approved; provided that in the event that such Eligible Employee’s application is not approved, he or she will not be entitled to severance pay or severance benefits although his or her employment has terminated.

A Participant shall abide by the State’s standards of conduct and satisfactorily perform his or her job responsibilities up to and including his or her Voluntary Separation Date. A Participant whose employment with the State terminates before his or her Voluntary Separation Date for any reason or other than in accordance with the terms of the VBP shall not be eligible to receive severance pay and severance benefits under the VBP.

WAIVER AND RELEASE

In order to be eligible to receive the severance pay and severance benefits, you must submit a signed Waiver and Release Agreement to your organization’s designated human resource office on your Voluntary Separation Date. No Waiver and Release Agreement may be submitted earlier than the Voluntary Separation Date. For retirement eligible Participants who opt for a Voluntary Separation Date (retirement) prior to August 15, 2008, signed Waiver and Release Agreement forms will be accepted through the later of their Voluntary Separation Date or August 15, 2008. The required Waiver and Release Agreement is attached hereto as **Attachment II.** A Participant may revoke the signed Waiver and Release Agreement within seven (7) calendar days of the date he or she submits the signed Waiver and Release Agreement to the VBP Administrator.

Any such revocation must be in writing and received by hand-delivery to the VBP Administrator, or by mail addressed to VBP Administrator, Department of Human Resources, James K. Polk Building, 1st Floor, 505 Deaderick Street, Nashville, TN 37243-0635, or by facsimile transmission to 615-741-7880, or by email to VBP.Administrator@state.tn.us. Any revocation received after the seven (7) calendar day period will not be effective. Revocations sent by inter-governmental messenger mail will not be accepted. A Participant who timely revokes his or her Waiver and Release Agreement shall be deemed to have voluntarily resigned from employment as of the Voluntary Separation Date and will not be eligible to receive any severance pay or benefits under the VBP. A Participant who submits a signed Waiver and Release Agreement and who does not exercise his/her right of revocation shall be eligible to receive severance pay and severance benefits.

SEVERANCE PAY

Each Participant who executes and does not revoke a Waiver and Release Agreement will receive a “base severance payment” equal to four (4) months of pay at the greater of the rate of pay in effect on June 2, 2008 or your Voluntary Separation Date. Participants will also receive an additional “service payment” of \$500 for each full or partial year of State service.

For purposes of this VBP, “years of State service” means the total number of months of employment with the State in any classification as determined by the Department of Human Resources divided by twelve (12). Creditable service includes any time off on (i) paid sick leave, (ii) paid leave of absence, (iii) unpaid leave of absence under the FMLA, and (iv) military leave. Your years of State service will be determined as of your Voluntary Separation Date

For purposes of the service payment, partial years of service will be rounded up. For example, an employee with 63 months (i.e., 5 years and 3 months) of creditable State service will receive credit for a total of 6 years of State service for purposes of computing the additional severance payment (\$500 for each year of service).

In addition to any health insurance benefit to which a Participant may be entitled to receive, Participants 65 years of age or older as of their Voluntary Separation Date will receive a \$2,400 cash payment to assist in the transition to Medicare.

SEVERANCE BENEFITS

Participants who execute and do not revoke the Waiver and Release Agreement shall receive the following severance benefits:

(a) *Continuation Medical Coverage*

Under federal law (referred to as “COBRA”), if you participated in the State’s health plan on your Voluntary Separation Date, you may be entitled to elect health care continuation coverage for up to eighteen (18) months. Under COBRA, you are required to pay the full cost for such coverage, plus a two-percent (2%) administrative fee.

The VBP will offer a special subsidy to COBRA coverage. For the first six (6) months after your Voluntary Separation Date, you will only be required to pay the same share of the applicable premium that would apply if you were participating in the medical plan as an active employee. Thereafter, you will be required to pay the full applicable COBRA premium to continue your coverage for the remainder of the eighteen (18) month COBRA period. For example, if you pay 20% of your health insurance cost as an employee, you will continue to pay your 20% share of the cost for the first six (6) months under COBRA.

All of the terms and conditions of the State-sponsored medical and dental benefit plans, as amended from time to time, shall be applicable to you (and your eligible dependents) if you are participating in any form of continuation coverage under the State-sponsored medical and dental benefit plans. More information regarding your COBRA benefits will be provided after your separation.

(b) *Tuition Assistance*

Each Participant in the VBP will be offered tuition assistance for the schools, institutions and entities governed by the Tennessee Board of Regents and the University of Tennessee Board of Trustees, including but not limited to technology centers, community colleges, and state universities in Tennessee. In addition, tuition assistance reimbursement will be offered at any apprenticeship program certified by the Tennessee Department of Labor and Workforce Development at rates consistent with the rates in effect as of June 10, 2008. The maximum amount of tuition assistance that will be offered to a VBP Participant will be \$5,400 per year, for a total of up to \$10,800 per Participant. GED classes will also be available through the Tennessee

Department of Labor and Workforce Development's Career Centers and testing fees will be covered under the tuition assistance benefit. The tuition assistance program will provide funds to be used toward the payment of tuition and mandatory fees only. Books and other fees (i.e., athletic fees, parking fees) are not covered. Tuition assistance will be administered by the Tennessee Student Assistance Corporation (TSAC).

These tuition assistance benefits begin September 1, 2008 and may not be used for courses that begin after June 30, 2011. Tuition assistance is available for the Participant only, and this benefit is not transferable or redeemable for the cash equivalent. To the extent that this benefit is considered taxable, the Participant shall be responsible for such taxes.

(c) *Advanced Longevity Pay*

Participants will also receive advanced longevity pay based on their years of creditable State service. Longevity pay will be calculated according to the normal State practice, which is detailed in the Rules of the Tennessee Department of Personnel, Chapter 1120-4.15, Longevity Pay. The State will not advance any longevity pay that accrues after June 30, 2009.

(d) *Payment for Accrued, Unused Annual Leave*

Participants, as with any employee who separates from his or her employment, will also receive payment for all accrued but unused annual leave as of the Voluntary Separation Date, according to normal State practice.

(e) *Payment for Accrued, Unused Compensatory Time*

Participants, as with any employee who separates from his or her employment, will also receive payment for all accrued but unused compensatory time as of the Voluntary Separation Date, according to normal State practice.

PAYMENT OF SEVERANCE PAY

The State shall pay severance pay in a lump sum within **31** days from the receipt by the State of the Waiver and Release Agreement, which will be due on the Voluntary Separation Date (or August 15, 2008, for retirement eligible Participants who voluntarily separate prior to that date). The State shall deduct from severance pay all legally required taxes, other withholding, and any sums owing to the State. Notwithstanding, any payments related to severance benefits will only be paid after the seven-day revocation period for the signed Waiver and Release Agreement has passed. If a Participant who has signed the Waiver and Release Agreement dies before receiving all of the severance pay, the State shall pay the remainder to the deceased employee's estate.

VBP ADMINISTRATION

The VBP Administrator is the Commissioner of Human Resources. The VBP Administrator may delegate the role of VBP Administrator in its sole discretion. In making initial determinations, the VBP Administrator shall have the discretionary authority to determine eligibility for severance pay and severance benefits and to construe the terms of the VBP, including the making of factual determinations. **The decisions of the VBP Administrator shall be final and conclusive with respect to all questions concerning the administration of the VBP.** The VBP Administrator's address is:

State of Tennessee Department of Human Resources
Attn: VBP Administrator
James K. Polk Building, 1st Floor
505 Deaderick Street
Nashville, TN 37243-0635

The VBP Administrator may delegate to other persons responsibilities for performing certain of the duties of the VBP Administrator under the terms of the VBP and may seek such expert advice as the VBP Administrator deems reasonably necessary with respect to the VBP. The VBP Administrator shall be entitled to rely upon the information and advice furnished by such delegates and experts, unless actually knowing such information and advice to be inaccurate or unlawful.

PAY AND OTHER BENEFITS

All pay and benefits (except severance pay and severance benefits specific to the VBP) payable to a Participant upon voluntary separation from employment with the State shall be paid in accordance with the terms of those established policies, plans, and procedures.

NO RE-EMPLOYMENT OR OTHER WORK WITH THE STATE

Generally, a Participant, for a period of two years from his/her Voluntary Separation Date, may not seek or accept employment or other work in any capacity (e.g., employee, independent contractor, or consultant) with any executive branch entity that participated in the VBP. This prohibition may only be waived in writing by the Commissioner of Human Resources, the Commissioner of Finance and Administration, and the Appointing Authority of the executive branch entity with which the employee may commence such employment or other work, all of whose signatures are required before any such employment or other work can commence.

QUESTIONS REGARDING THE VBP

If you have general questions concerning the VBP, the State has established a call center to answer your questions. The number is **(615) 253-9980** or toll-free **1-866-252-7954**. A representative of the State will be available to answer your questions during the hours of 7:00 a.m. to 7:00 p.m. Central time on weekdays and 9:00 a.m. to noon Central time on Saturdays beginning **June 16, 2008**. You can also email your questions to voluntary.buyout@tn.gov.

More information about the program will also be available on the State's website. To find the information, please visit www.TN.gov and click on the Voluntary Buyout Package button (the direct address is www.tn.gov/dohr/voluntarybuyout.html). On the website, you will find answers to frequently asked questions, a calendar of important VBP dates, a schedule of informational sessions taking place across the State, news and updates, and links to other resources for employees.

In addition, the Departments of Human Resources and Finance & Administration will host information sessions across the State in June and July to explain the Voluntary Buyout Program and answer questions. Visit the VBP website for dates and locations.

DISPUTES REGARDING APPLICATION OF THE VBP

If for any reason you dispute or disagree with the application of the VBP with regard to your situation, please contact the VBP Administrator in writing at the address set forth above. The VBP Administrator will attempt to resolve any disputes. In order to be considered, any dispute or disagreement you may have

must be hand delivered or postmarked not later than thirty (30) calendar days from the date of the occurrence of the matter giving rise to dispute or disagreement or within thirty (30) calendar days after you, through the use of reasonable diligence, could have obtained knowledge of the occurrence of the matter giving rise to the dispute or disagreement. Written disputes or disagreements sent by facsimile, electronic mail, or inter-governmental messenger mail will not be accepted.

NO ASSIGNMENT OF VBP BENEFITS

Under no circumstances may severance pay or benefits be subject to anticipation, alienation, pledge, sale, transfer, assignment, garnishment, attachment, execution, encumbrance, levy, lien, or charge, and any attempt to cause any such severance pay or benefits to be so subjected shall not be recognized, except to such extent as may be required by law.

CONFIDENTIAL INFORMATION/COOPERATION

Participants must agree to keep and maintain the confidentiality of any and all information that they acquired during their employment with the State that is treated as confidential and nondiscloseable under state or federal law. Each Participant shall cooperate with the State and its legal counsel in connection with any current or future investigation or litigation relating to any matter in which the Participant was involved or of which the Participant has knowledge, or which occurred during the Participant's employment. Such assistance shall include, but not be limited to, depositions and testimony, and shall continue until such matters are resolved.

MAXIMUM PAYMENT

The severance pay and severance benefits available under the VBP is the maximum severance related payment made available by the State in the event an Eligible Employee's application for voluntary separation from employment is accepted. To the extent that the State pays to the Participant any disability retirement benefits from the Tennessee Consolidated Retirement System or any temporary total, temporary partial, or similar benefits based on a worker's compensation claim (collectively, "Offset Benefit"), the VBP severance pay and severance benefits available may be coordinated with and reduced by the amount of such Offset Benefit to the fullest extent permitted by law. The State in its absolute discretion reserves the right to offset any Offset Benefit but in no event will the amount paid under the VBP equal less than one month of pay (as calculated above) which shall be severance pay in consideration for the Waiver and Release Agreement.

AMENDMENT OF THE VBP

The VBP may be amended in any respect at any time, retroactively or otherwise, by the State in its discretion. Notwithstanding the foregoing, no amendment of the VBP may reduce the severance pay and severance benefits previously granted to a Participant under the VBP.

INFORMATION TO BE FURNISHED

Eligible Employees and Participants shall furnish to the VBP Administrator such documents, data, or other information as the VBP Administrator considers necessary or desirable for the purpose of administering the VBP. Severance pay and severance benefits under the VBP for each Eligible Employee or Participant are on the condition that such person shall furnish full, true, and complete documents, data, or other information, and shall promptly sign any document reasonably related to the administration of the VBP requested by the VBP Administrator.

RECOVERY OF VBP BENEFITS MADE BY MISTAKE

A Participant shall be required to return to the State any severance pay or benefits, or portion thereof, made by a mistake of fact or law.

REPRESENTATIONS CONTRARY TO THE VBP

No employee, officer, director, commissioner or agent of the State has the authority to alter, vary or modify the terms of the VBP, except by means of an authorized written amendment to the VBP approved by the Commissioner of Human Resources and the Commissioner of Finance and Administration for the State. No verbal or written representations contrary to the terms of the VBP and its written amendments shall be binding upon the VBP, the VBP Administrator or the State.

NO EMPLOYMENT RIGHTS OR CONTRACT

The VBP shall not confer employment rights upon any person. Nothing contained in the VBP shall be construed as a contract of any kind between the State or any related entity and any person. No person shall be entitled by virtue of the VBP to remain in the employ of the State and nothing in the VBP shall restrict the right of the State to terminate the employment of any Eligible Employee. The State shall not be under any obligation to employ, re-employ or consider for employment or re-employment any Participant in the VBP.

APPLICABLE LAW

The VBP shall be governed and construed in accordance with the laws of the State of Tennessee, without reference to its conflicts of law provisions.

SEVERABILITY

If any provision of the VBP is found, held, or deemed by a court of competent jurisdiction to be void, unlawful or unenforceable under any applicable statute or other controlling law, the remainder of the VBP shall continue in full force and effect.

RETURN OF STATE PROPERTY

All State property (i.e., keys, documents and records, uniforms, identification cards, etc.) shall be returned by a Participant on or before his or her Voluntary Separation Date in order for such Participant to commence receiving severance pay and severance benefits under the VBP.

RECOMMENDATION OF ATTORNEY REVIEW

Eligible Employees are advised to contact their personal attorney at their own expense to discuss the VBP and to review the Waiver and Release Agreement if they so desire.

* * *

This VBP is hereby adopted by the State, effective **June 10, 2008**, by execution of this VBP by the State's duly authorized officer.



Deborah E. Story, Commissioner
Department of Human Resources



M.D. Goetz, Jr., Commissioner
Department of Finance and Administration

SAMPLE